APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/925,703	09/09/1997	DUANE LE ALLEN	MICL:024(97-	5929

7590 01/15/2004	EXAMINER
COE F. MILES	OPIE, GEORGE L
TROP PRUNER HU & MILES, PC	

ART UNIT	PAPER NUMBER
2126	

COE F. MILES
TROP PRUNER HU & MILES, PC
8554 KATY FREEWAY
SUITE 100
HOUSTON, TX 77024

DATE MAILED: 01/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will
  be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this
  communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

1) _X_ Responsive to communication(s) filed on _14 October 2003_ .

2a) ___ This action is **FINAL.**   2b) _X_ This action is non-final.

3) ___ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) _X_ Claim(s) _34-51_ is/are pending in the application.

  4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ___ Claim(s) _____ is/are allowed.

6) _X_ Claim(s) _34-51_ is/are rejected.

7) ___ Claim(s) _____ is/are objected to.

8) ___ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ___ The specification is objected to by the Examiner.

10) ___ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ___ The proposed drawing correction filed on _____ is: a) ___ approved b) ___ disapproved.

12) ___ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ___ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

  a) ___ All b) ___ Some * c) ___ None of the CERTIFIED copies of the priority documents have been:

    1. ___ received.

    2. ___ received in Application No. (Series Code / Serial Number) _____.

    3. ___ received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

  * See the attached detailed Office action for a list of the certified copies not received.

14) ___ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

Attachment(s)

14) ___ Notice of References Cited (PTO-892)	17) ___ Interview Summary (PTO-413) Paper No(s). _____.
15) ___ Notice of Draftsperson's Patent Drawing Review (PTO-948)	18) ___ Notice of Informal Patent Application (PTO-152)
16) ___ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.	19) _X_ Other: Text doc for USP5,640,562 .

DETAILED ACTION

This Office Action is responsive to Amendment D, in which claims 34 and 44 were amended.

1.   Request for copy of Applicant's response on floppy disk:
Please help expedite the prosecution of this application by including, along with your amendment response in paper form, an electronic file copy in WordPerfect, Microsoft Word, or in ASCII text format on <u>a 3½ inch IBM format floppy disk</u>. Please include all pending claims along with your responsive remarks. Only the paper copy will be entered -- your floppy disk file will be considered a duplicate copy. Signatures are not required on the disk copy. The floppy disk copy is not mandatory; however, it will help expedite the processing of your application. Your cooperation is appreciated.

2.   The U.S. Patents used in the art rejections below have been provided as text documents which correspond to the U.S. Patents. The relevant portions of the text documents are cited according to page and line numbers in the art rejections below. For the convenience of Applicant, the cited sections are highlighted in the *text documents*. Consistent with Office procedure, the U.S. Patents corresponding to the *text documents* are also included with this action.

3.   Claim Rejections - 35 U.S.C. § 103

        The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 34-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art (APA) – background of the Application in view of Wold et al. (U.S. Patent 5,640,562).

As to claim 34, the APA p4 l8-17) teaches a method comprising:
providing an operating system package (OS) that includes a first configuration file (includes a configuration file) the operating system package comprising a

standalone package to run a computer system (package through which the user and the computer interface) without requiring additional software (OS installed ... by the user after reconfiguring the system ... generally performed using installation software provided on a CD-ROM) and the first configuration file including information used by the operating system package to install first drivers (drivers) for a first set of devices (devices ... associated with the computer) on a computer. The APA does not explicitly disclose the additional limitations detailed below.

Wold teaches providing a second configuration file external to the operating system package (ly2install script 135, p5 9-47) the second configuration file including information to direct the installation of a second driver for a second device (install new ... device specific drivers, p3 4-20) installing the second driver on the computer based on the information in the second configuration file (ly2install script which provides ... configuration of the system peripherals, p5 9-47) and
installing the operating system package (install the platform specific kernel 127 ... onto the system 100, p5 9-47) on the computer based on the information in the second configuration file (ly2install script 1135 which provides information that the installation routine 131 uses to determine which files to install on the system 100, Id.).

It would have been obvious to combine Wold's teachings with the APA because the new installation scripts would automate upgrading, OS fixes, and setting-up of the latest advances in hardware/technology.

As to claim 35, the APA (background p3 l14 – p4 l2) teaches executing a setup program (software) of the operating system package (OS) to install the second driver (installs whatever drivers the device needs). It would have been obvious to combine the installation execution teachings with the APA as modified because the setup program that executes the appropriate OS configuration functions assist the user to complete the installation by simply running the setup program so that the device is fully operational.

As to claim 36, "Official Notice" is taken that the addition of a second device that is not included in the first set of devices for driver installation is well known in the art (MPEP2144.03). It would have been obvious to combine new device installation with the system of the APA as modified because a user may need to add a component on to the machine but the drivers for that new component are not present on the machine, so the second file provides a mechanism for adding new drivers to the system.

As to claim 37, "Official Notice" is taken that installing applications after the second driver and the operating system are installed is well known in the art. It would have been obvious to have the application loading follow the installation of the OS and drivers integrate with the APA as modified because the installation of application programs are dependent on the configuration of the system, and customary setup routines enable efficient installation of a user's software package, including all of the programs that constitute the system applications.

As to claim 38, "Official Notice" is taken that determining one procedure from a plurality of options is well known in the art.   (MPEP 2144.03). In the interest of flexibility and efficiency, it would be important to incorporate a mechanism for choosing an installation procedure from a variety of possibilities, and it would have been obvious to combine this option determination principle with the APA as modified, thereby furnishing the installation facility with a feature for determining one procedure for installation from a number of alternatives in order that the setup procedure suits the user's needs.

As to claims 39-40, "Official Notice" is taken that the dynamic identification of devices is automated or user-driven is well known in the art (MPEP2144.03). It would have been obvious to combine the automated/user-driven system of dynamic identification of devices with the APA as modified because the dynamic identification would help set-up the peripheral component configuration for the user with the automated/direct-driven teaching that provides enhanced installation capabilities, i.e. a user-friendly utility that powerfully manages the low-level details requisite in installation of new hardware and system upgrades.

As to claim 41, "Official Notice" is taken that an ISA, PCI, SCSI, and an IDE device are component standards which are well known in the art. (MPEP 2144.03). It would have been obvious to combine components from the recited respective device standards with the APA as modified because the adaptations for the variety of protocols enable automated management, maintenance, and installation for machines equipped with any of the recited device standard components.

As to claim 42, "Official Notice" is taken that a display device, a sound device, a modem, and a controller are components that need respective drivers for the system to function properly is well known in the art (MPEP 2144.03). It would have been obvious to combine the peripheral devices with the APA as modified because the utilization of these common computing interfaces facilitates a user's ability to enjoy the maximum extent of the machines communication services.

As to claim 43, "Official Notice" is taken that the patching of errors in a first configuration file with information in a second configuration file is well known in the art (MPEP 2144.03). It would have been obvious to employ the file patching concept in the APA as modified because the correcting of errors via patches from one file to a second file facilitates solution implementation/installation, thereby enabling a user to easily maintain the OS package, devices and machine in a properly performing status.

As to claims 44-50, note the rejections of claims 34, 37-39, and 41-43 respectively. Claims 44-50 are the same as claims 34, 37-39, and 41-43, except claims 44-50 are computer program product claims and claims 34, 37-39, and 41-43 are method claims.

As to claim 51, the APA teaches that the device drivers are typically installed during the OS installation, background p4 ln 15-17. Accordingly, the typical scenario would have setup the second device's driver contemporaneously with the OS installation. It would have been obvious to combine this packaging setup with the APA as modified because the installation of the driver for the second (or any other) device during the OS setup would save time and eliminate the need for the user to perform the software configuration for the device.

5.   Claims 34-51 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Admitted Prior Art (APA) – background of the Application in view of Lipe et al. (U.S. Patent 5,748,980).

As to claim 34, the APA p4 l8-17) teaches a method comprising:
providing an operating system package (OS) that includes a first configuration file (includes a configuration file) the operating system package comprising a standalone package to run a computer system (package through which the user and the computer interface) without requiring additional software (OS installed ... by the user after reconfiguring the system ... generally performed using installation software provided on a CD-ROM) and the first configuration file including information used by the operating system package to install first drivers (drivers) for a first set of devices (devices ... associated with the computer) on a computer. The APA does not explicitly disclose the additional limitations detailed below.

Lipe teaches providing a second configuration file external to the operating system package (configuration manager 158, p24 55 – p25 13) the second configuration file including information to direct the installation of a second driver for a second device (install devices 20, Id.)
installing the second driver on the computer (drivers for the devices are loaded, p4 52 – p5 8) based on the information in the second configuration file (works in

conjunction with the configuration manager to install devices, p24 55 – p25 13) and installing the operating system package on the computer (loading the operating system, p20 20-29) based on the information in the second configuration file (configuration process ... steps 66 and 68, Id.).
It would have been obvious to combine Lipe's teachings with the APA because the configuration manager enables an automated/simplified setup of the system with user-friendly management.

As to claim 35, the APA (background p3 I14 – p4 I2) teaches executing a setup program (software) of the operating system package (OS) to install the second driver (installs whatever drivers the device needs). It would have been obvious to combine the installation execution teachings with the APA as modified because the setup program that executes the appropriate OS configuration functions assist the user to complete the installation by simply running the setup program so that the device is fully operational.

As to claim 36, Lipe teaches "[t]he present invention enables a user of a computer to install a new device", p4 21-30 which corresponds to the second device is not included in the first set of devices.

As to claim 37, Lipe teaches "customization of
computer operations ... handling of application programs", p20 20-29, and from this, one skilled in the art would have provided for installing applications after the second driver and the operating system are installed.

As to claim 38, "Official Notice" is taken that determining one procedure from a plurality of options is well known in the art.   (MPEP 2144.03). In the interest of flexibility and efficiency, it would be important to incorporate a mechanism for choosing an installation procedure from a variety of possibilities, and it would have been obvious to combine this option determination principle with the APA as modified, thereby furnishing the installation facility with a feature for determining one procedure for installation from a number of alternatives in order that the setup procedure suits the user's needs.

As to claims 39-40, Lipe (p18 12-26) teaches the second device (one of the devices 20) is identified dynamically (detected ... automatically). From Lipe's aforementioned teachings, one skilled in the art would have provided the dynamic identification to be one of automated and user-driven.

As to claim 41, "Official Notice" is taken that an ISA, PCI, SCSI, and an IDE device are component standards which are well known in the art.
(MPEP 2144.03). It would have been obvious to combine components from the recited respective device standards with the APA/ServicePack system because

the adaptations for the variety of protocols enable automated management, maintenance, and installation for machines equipped with any of the recited device standard components.

As to claim 42, "Official Notice" is taken that a display device, a sound device, a modem, and a controller are components that need respective drivers for the system to function properly is well known in the art (MPEP 2144.03). It would have been obvious to combine the peripheral devices with the APA/ServicePack system because the utilization of these common computing interfaces facilitates a user's ability to enjoy the maximum extent of the machines communication services.

As to claim 43, "Official Notice" is taken that the patching of errors in a first configuration file with information in a second configuration file is well known in the art (MPEP 2144.03). It would have been obvious to employ the file patching concept in the APA as modified because the correcting of errors via patches from one file to a second file facilitates solution implementation/installation, thereby enabling a user to easily maintain the OS package, devices and machine in a properly performing status.

As to claims 44-50, note the rejections of claims 34, 37-39, and 41-43 respectively. Claims 44-50 are the same as claims 34, 37-39, and 41-43, except claims 44-50 are computer program product claims and claims 34, 37-39, and 41-43 are method claims.

As to claim 51, the APA teaches that the device drivers are typically installed during the OS installation, background p4 ln 15-17. Accordingly, the typical scenario would have setup the second device's driver contemporaneously with the OS installation. It would have been obvious to combine this packaging setup with the APA/ServicePack system because the installation of the driver for the second (or any other) device during the OS setup would save time and eliminate the need for the user to perform the software configuration for the device.

5.   Response to Applicant's Arguments:

Applicant's remarks accompanying Amendment D, have been considered, but are moot in view of the new grounds of rejection necessitated by Applicant's amendments.

In considering the claimed OS package and the configuration files, it is noted that Applicant uses terminology that has broad meaning in the art, and thus requires a broad interpretation of the claims in determining patentability of the

disclosed invention. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The recited OS installation is clearly subject to a broad interpretation, as detailed in the rejections maintained above. The Examiner has a *duty* and *responsibility* to the public and to Applicant to interpret the claims *as broadly as reasonably possible* during prosecution (see *In re Prater, 56 CCPA 1381, 415F.2d 1393, 162 USPQ 541 (1969)*). Applicant should set forth claims in language that clearly, distinctly, unambiguously and uniquely define the invention.

Contact Information:

PTO Policy for Facsimile Submissions:
☐   AFTER-FINAL faxes must be signed and sent to (703) 746-7238.
☐   OFFICIAL faxes must be signed and sent to (703) 746-7239.
☐   NON OFFICIAL faxes should be sent to (703) 746-7240.

☐   All responses sent by U.S. Mail should be mailed to:
        Commissioner for Patents
        PO Box 1450
        Alexandria, VA 22313-1450

☐   Hand-delivered responses should be brought to Crystal Park Two, 2021 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist). All hand-delivered responses will be handled and entered by the docketing personnel. Please do not hand deliver responses directly to the Examiner.

☐   Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist at **(703) 305-9600.**

☐   Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Opie at (703) 308-9120 or via e-mail at *George.Opie@uspto.gov.* Internet e-mail should not be used where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the Applicant. Sensitive data includes confidential information related to patent applications.

ZARNI MAUNG
PRIMARY EXAMINER